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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**H.B. and T.B., individually and O/B/O
B.B. ¹**

Plaintiffs,

- against -

**BYRAM HILLS CENTRAL SCHOOL
DISTRICT,**

Defendant.

DOCKET NO. 15 Civ. 5742 (VLB)

The Hon. Vincent L. Briccetti, U.S.D.J.

ORAL ARGUMENT REQUESTED

Plaintiffs'

Notice of Motion for Summary Judgment

Plaintiffs' Notice of Motion for Summary Judgment

¹Plaintiffs are not expressly named herein by their given names because of the privacy guarantees provided in the IDEA statute, as well as in the Family Educational Rights Privacy Act, 20 U.S.C. 1232(g) and 34 C.F.R. 99 (hereinafter "FERPA"). All student parties and actors herein are listed by pseudonym. This is done to protect their privacy pursuant to and in the spirit of FERPA. Whereas this action will require the inspection of student records of all student parties herein, Plaintiffs herein seek to protect the identity of all listed student parties by using pseudonyms.


PLEASE TAKE NOTICE that upon the pleadings, the October 15, 2014 (appealed) Findings of Fact and Decision of Jean Lucasey, Impartial Hearing Officer (“IHO”), the January 30, 2015, Decision of Justyn P. Bates, State Review Officer (“SRO”), the Plaintiffs’ 56.1 Statement of Uncontroverted Facts, together with the exhibits annexed thereto, upon Plaintiffs’ supporting Memorandum of Law, and upon all the evidence, submissions and other matters considered by the State Review Officer, plaintiffs will move this Court before the Hon. Vincent L. Briccetti, U.S.D.J., at the United States Courthouse located at 300 Quarrapos Street, White Plains, NY 10601, for the following relief:

- A. For a modified *de novo* review and adjudication on the merits pursuant to the Individuals with Disabilities Education Improvement Act (20 U.S.C. §1400, *et seq.*) reversing both the October 15, 2014 Decision of the IHO, and the January 30, 2015 Decision of the SRO with regards to their determinations for the 2011-12 and 2012-13 school years;
- B. A declaration that the defendant, Byram Hills Central School District (hereinafter “BHCS D” or “District”) failed to offer BB a “free appropriate public education” (hereinafter “FAPE”) for the 2011-12 school year;
- C. A declaration that the defendant, BHCS D failed to offer BB a “free appropriate public education” (hereinafter “FAPE”) for the 2012-13 school year;
- F. A declaration that Plaintiffs’ unilateral placement of BB at The Gow School (hereinafter “Gow”) for the 2011-12 and 2012-13 school years was appropriate and “reasonably calculated” and thus reimbursable under the Second Circuit's Prong II standards;
- G. A declaration that there are no compelling equitable considerations that would preclude or diminish a reimbursement award for the tuition expenses incurred by the Plaintiffs;

- H. An Order that BHCS D reimburse Plaintiffs for the tuition expenses they incurred for Gow for the 2011-12 and 2012-13 school year;
- I. A declaration that Plaintiffs are the “substantially prevailing” party in this action;
- J. An Order granting leave to Plaintiffs' counsel to submit a fee application for purposes of statutory attorney’s fees and other recoverable costs at the administrative level, the SRO level, and in this action, pursuant to the express fee-shifting provisions of the IDEIA statute; and
- K. An Order granting plaintiffs such other, further and different relief as may be just under the circumstances.

Additionally, oral argument in this matter is requested, and will be on a date and at a time designated by the Court.

Dated: December 21, 2015
Katonah, NY



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